A. CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

Board President, Sylvia Kwan, called the meeting to order at 9:08 a.m. and Board Secretary, Denise Campos, called roll.

Board Members Present
Sylvia Kwan, President
Tian Feng, Vice President
Denise Campos, Secretary (departed at 3:50 p.m.)
Jon Alan Baker
Pasqual Gutierrez
Ebony Lewis
Matthew McGuinness
Robert C. Pearman, Jr. (departed at 5:00 p.m.)
Barry Williams

Board Member Absent
Nilza Serrano

Guests Present
Mark Christian, Director of Government Relations, American Institute of Architects, California Council (AIACC)
Robert de los Reyes, Budget Manager, Department of Consumer Affairs (DCA)
Dustin Maxam
Paul McDermott, Budget Analyst, DCA
Karen Nelson, Assistant Deputy Director, Office of Board and Bureau Services, DCA
Patricia Trauth, Chair, Landscape Architects Technical Committee (LATC)

Staff Present
Vickie Mayer, Interim Executive Officer (EO)
Trish Rodriguez, Assistant EO
Marcus Reinhardt, Program Manager Examination/Licensing
Brianna Miller, LATC Program Manager
Mel Knox, Administration Analyst
Bob Carter, Architect Consultant
Tara Welch, Attorney III, DCA

Six members of the Board present constitute a quorum. There being nine present at the time of roll, a quorum was established.
B. PRESIDENT’S PROCEDURAL REMARKS AND BOARD MEMBER INTRODUCTORY COMMENTS

Ms. Kwan announced that the meeting is being webcast, all motions will be repeated for the record, and votes on all motions will be taken by roll-call.

C. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Dustin Maxam expressed frustration with the slow implementation of recently approved regulatory changes to create new pathways to licensure for landscape architects. Mr. Maxam asked the Board to expedite the approved changes to remove barriers to entry for landscape architects seeking licensure in California via reciprocity.

D. CLOSED SESSION – PURSUANT TO GOVERNMENT CODE SECTIONS 11126(a)(1), 11126(c)(3), AND 11126.1, THE BOARD WILL MEET IN CLOSED SESSION TO:

1. Conduct interviews and possible appointment of EO;
2. Review and possible action on March 1, 2018 Closed Session Minutes; and
3. Deliberate and vote on disciplinary matters.

E. RECONVENE OPEN SESSION

The Board reconvened open session.

F. REPORT ON ACTIONS TAKEN DURING CLOSED SESSION REGARDING EO APPOINTMENT

Ms. Kwan reported that, during closed session, the Board arrived at a decision regarding the EO appointment.

H. INTERIM EXECUTIVE OFFICER’S REPORT*

Robert de los Reyes updated the Board on the state of its budget. Mr. Reyes reviewed the Board’s Budget Report, Analysis of Fund Condition, and other budget documentation contained in the meeting packet, and reported that the Board’s budget is in a positive state. He informed that the Board is currently reverting 10 percent (approximately $400,000) of its budget due primarily to staff vacancies. Jon Alan Baker enquired about the increase in equipment expenses for the current fiscal year (FY) compared to prior year expenditures. Vickie Mayer explained that staff accounts for the equipment the Board anticipates it needs for the next FY (e.g., printers, computers); if approved, the amount is added to the Board’s budget authority. Mr. Reyes added that minor equipment expenses are considered discretionary costs.

Mr. Reyes reported that the Board’s number of Months in Reserve is within the allowable standards with 14.7 Months in Reserve recorded at the end of FY 2016-17, and 8.3 Months in Reserve projected for FY 2020-21. He also explained that all data (expenditures, revenue, budget authority, etc.) on the Analysis of Fund Condition document, besides FY 2016-17 data, are projections. Mr. Reyes reported that the Board is projected to fully expend its budget, and that projected revenues are conservative estimates. Matthew McGuinness enquired about the
new Supplemental Pension Payment (State Operations) line item on the Analysis of Fund Condition document. Mr. Reyes informed that the item is a new state-wide expenditure to debt-service a six billion dollar injection of funds into the California Public Employees Retirement System’s (CalPERS) budget. Mr. Reyes explained that the new Supplemental Pension Payment affects all state agencies that contribute to the CalPERS fund, and the Board is scheduled to pay $44,000 for the next eight FYs (conservative estimate). Robert Pearman asked if the loan is interest-free, to which Mr. Reyes answered it is not.

Tian Feng enquired about the consequence of the Board overspending its budget, to which Mr. Reyes explained that the Government Code makes the EO financially liable. Mr. Reyes noted that government policy to accord EO liability is a tool to deter excess spending.

G. REVIEW AND POSSIBLE ACTION ON MARCH 1, 2018 BOARD MEETING MINUTES

Ms. Kwan asked for comments concerning the minutes of the March 1, 2018 Board meeting.

- Nilza Serrano moved to approve the March 1, 2018 Board meeting minutes.

  Tian Feng seconded the motion.

  Members Baker, Campos, Feng, Gutierrez, Lewis, McGuinness, Williams, and President Kwan voted in favor of the motion. Member Pearman abstained. Member Serrano was absent. The motion passed 8-0-1.

H. INTERIM EXECUTIVE OFFICER’S REPORT (continued)

Ms. Mayer reported that the remaining Board meetings for 2018 are scheduled for September 12, 2018, in the Bay Area possibly at the Port of San Francisco, and on December 13-14, 2018, in Sacramento possibly at American River College and the Stanley Mosk Library and Courts Building.

Ms. Mayer also reported that the managers approved the Board’s Business Processes for its Business Modernization Plan and submitted them to the DCA in May. She advised the mapping process will begin in October, as scheduled.

Ms. Mayer reminded the Board of its conversation with DCA Chief Information Officer, Jason Piccione, in March concerning the Board’s inability to process payments without a physical check and a DCA “stop-gap” (Interim Credit Card Acceptance Portal) initiative to accept credit cards by the end of the calendar year. She reported that a contract for the Board’s participation in the initiative is being developed, and staff is consulting with legal counsel to understand how the Board can best manage associated costs.

Ms. Mayer reported that the Executive Committee met on May 16, 2018, when they reviewed both the Board and LATC draft 2018 Sunset Review Reports and provided input for the Board’s consideration (Agenda Item I). She also reminded the Board of the Communication Committee’s 2017-2018 Strategic Plan objective to explore the possibility of the Board participating in consumer events as a means of communicating directly with the public. Ms. Mayer reported that, to fulfill the objective, staff worked with DCA’s Office of Public Affairs and the Contractors State License Board (CSLB) on an article in the Consumer Connection magazine to be published later in June.
Ms. Mayer informed the Board that staff was asked by AIACC’s Associate Director of Programs to provide input on a Path to Licensure infographic that will be disseminated to its membership, and that staff is currently reviewing the infographic to provide feedback.

Ms. Mayer reported that the Board anticipates commencing the process of migration to DCA Search during summer 2018. She explained that DCA Search will replace Web License Look Up, and that the new DCA Search will modernize the license verification tool by including compatibility for smartphones and providing consumers with enhanced licensee information.

Ms. Mayer reported that the rulemaking package the Board approved at a prior meeting to reduce the California Supplemental Examination (CSE) wait time to retake the examination from 180 days to 90 days has been filed with DCA’s Division of Legislative and Regulatory Review.

Ms. Mayer directed the Board’s attention to an increase in the amount of pending complaints for the prior month of April. She noted that the Enforcement Unit currently has position vacancies and that staff has redirected work with the goal to reduce the number of pending cases.

Ms. Mayer announced that LATC Chair, Patricia Trauth, will later join the Board meeting for the LATC Program Manager’s update on its May 4, 2018 LATC meeting.

I. DISCUSS AND POSSIBLE ACTION ON EXECUTIVE COMMITTEE’S RECOMMENDATIONS TO THE BOARD REGARDING 2017-2018 STRATEGIC PLAN OBJECTIVE TO PREPARE FOR THE SUNSET REVIEW PROCESS IN ORDER TO FACILITATE A POSITIVE OUTCOME

Ms. Mayer reported that the 2018 Sunset Review Report will be submitted to the Legislature on December 1, 2018. She advised that the Board had not yet received the official 2018 template it needs to complete responses for the Report, but that the Board has been using the 2017 template as a guide. Ms. Mayer informed that much of the material from the well-received 2014 Sunset Review Report appeared in the 2017 template. She noted that the 2018 template may have new questions or revisions. Ms. Mayer informed the Board that it would have a final opportunity to review the draft Report at its September meeting. She asked the Board to review and provide input for the draft Board and LATC Sunset Review Reports.

Ms. Mayer noted that the first committee hearing will take place sometime in the spring of 2019. She also noted that approximately two weeks prior to the hearing (anticipated in March 2019), the Sunset Committee will provide a list of issues to the Board for clarification of items in the Report to be addressed at the hearing. Ms. Mayer reported that the LATC appointed a two-person working group to advise the LATC on its Sunset Review responses, while the Executive Committee advises the Board on its responses.

Ms. Mayer reviewed each of the 12 sections of the Report with the Board. The Board suggested several edits, including:

a) add March and June 2018 meeting attendance to Section 1;
b) add recent legislation to Section 1;
c) list all means of outreach in Section 2;
d) clarify specialized training costs in Section 3;
e) include Architect Registration Examination data to Table 8 in Section 4; and
f) strike Integrated Path to Architectural Licensure language from Section 11 until more feedback on the success of the program is obtained.

Mr. Baker enquired about the status of the effort to amend the Business and Professions Code (BPC) to change the terms of a legal contract, referenced under Section 11 New Issues. Ms. Mayer informed that the previous EO tried to find a sponsor to introduce it into an omnibus bill, but his efforts were unsuccessful because omnibus bills should not contain controversial content.

J. DISCUSS AND POSSIBLE ACTION ON PROPOSED LEGISLATION:

1. Assembly Bill (AB) 767 (Quirk-Silva, 2018) Master Business License Act
2. AB 2138 (Chiu, 2018) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
3. AB 2182 (Levine, 2018) Privacy: Department of Consumer Affairs: California Data Protection Authority
4. AB 2483 (Voepel, 2018) Indemnification of Public Officers and Employees: Antitrust Awards
5. Senate Bill (SB) 721 (Hill, 2018) Contractors: Decks and Balconies: Inspection
6. SB 984 (Skinner, 2018) State Boards and Commissions: Representation: Appointments
7. SB 1137 (Vidak, 2018) Veterans: Professional Licensing Benefits
8. SB 1298 (Skinner, 2018) The Increasing Access to Employment Act
9. SB 1465 (Hill, 2018) Contractors: Civil Actions: Reporting
10. SB 1480 (Hill, 2018) Professions and Vocations

Mel Knox provided the Board a brief synopsis of proposed legislation that may be of interest to the Board. He informed that AB 767 (Quirk-Silva, 2018) would create within the Governor’s Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The Board took no position on AB 767.

Mr. Knox continued that AB 2138 (Chiu and Low, 2018) is intended to reduce barriers to professional licensure for individuals with prior criminal convictions by limiting a regulatory board’s discretion to deny a new license application or to suspend or to revoke an existing license. He explained that the bill limits a board’s discretion to cases where the applicant or licensee was formally convicted of a related crime or subjected to formal discipline by a licensing board and prohibits license denial, suspension, or revocation for offenses older than five years with the exception of violent felonies, as currently established in statute. Ms. Mayer recommended taking no position on the bill at this time and monitoring future amendments. She asked legal counsel whether it would be permissible for the Board’s new EO to work with the president to identify a position for the Board at a later date. Ms. Welch advised that if the Board takes a position, its members should have an opportunity to provide input; however, the Board’s Administrative Procedural Manual allows the EO to work with the president and vice-president to identify a position. Ms. Welch also clarified that AB 2138 is a true debate about public safety versus removing barriers to licensure. She reminded the Board of its mandate to view “protection of the public” as the Board’s highest priority, and that whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (BPC section 5510.15). The Board took no position on AB 2138.
Mr. Knox explained that AB 2182 (Levine, 2018) would require the DCA to establish an Internet portal linked to its Consumer Information Center Web page that contains links to the personal data privacy policies of online platforms, including social media. He noted that strong opposition to the bill exists outside of DCA; no opposition from any DCA board has been noted. The Board accepted staff’s recommendation to take no position at this time and monitor AB 2182.

Mr. Knox advised that AB 2483 (Voepel, 2018) would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the DCA for an act or omission occurring within the scope of the member’s official capacity as a member of that regulatory board. Ms. Welch clarified that the bill proposes removing personal liability from board members and specifies that the agency is responsible for any settlement or judgement.

- Jon Alan Baker moved to support AB 2483 (Voepel, 2018).

  Matthew McGuinness seconded the motion.

  Members Baker, Feng, Gutierrez, Lewis, McGuinness, Pearman, Williams, and President Kwan voted in favor of the motion. Members Campos and Serrano were absent. The motion passed 8-0.

Mr. Knox informed that SB 721 (Hill, 2018) is reaction to the 2015 Berkeley balcony collapse that killed six students and injured many others. He explained that the bill would require “exterior elevated elements” of multi-family dwelling units to be inspected by a licensed architect, licensed civil or structural engineer, or an individual certified as a building inspector or building official from a recognized state, national, or international association, as determined by the local jurisdiction. Mr. Feng directed the Board’s attention to the lack of clarity in the bill about who shall ultimately be responsible for ensuring this inspection is conducted.

The Board considered taking a watch position. Ms. Welch suggested the Board write a concern letter that takes no position but raises issues for the author’s consideration; the Board was receptive. Bob Carter explained that the cause of the balcony collapse was water intrusion on improper material used when the balcony was first constructed. Mr. Carter echoed Mr. Feng’s concern that the bill does not specify who is responsible for initiating inspections (e.g., property owners). Ms. Kwan requested a letter be prepared with the assistance of the Board’s architect consultants to convey the Board’s concerns with SB 721 and asked that the points raised by Mr. Carter be included in the letter. Mr. Baker opined that writing such a letter is a service that must be provided to protect consumers. Mr. McGuinness expressed his view that SB 721 should be opposed.

- Matthew McGuinness moved to oppose SB 721 (Hill, 2018) and submit a letter to the author of SB 721 outlining the Board’s concerns.

  Ebony Lewis seconded the motion.

Ms. Welch advised the Board to also consider authorizing the EO and/or the Board president to work with the author’s office to amend SB 721.
• Matthew McGuinness amended his motion to oppose SB 721 (Hill, 2018), submit a letter to the author of SB 721 outlining the Board’s concerns, and authorize the EO and/or Board president to work with the author’s office to amend the bill.

Ebony Lewis seconded the amended motion.

The Board further discussed elements needed in the bill to address core failures that lead to the Berkeley balcony collapse; members enquired about how to mandate ongoing deferred maintenance on buildings.

Members Baker, Feng, Gutierrez, Lewis, McGuinness, Williams, and President Kwan voted in favor of the motion. Member Pearman abstained. Members Campos and Serrano were absent. The motion passed 7-0-1.

Mr. Knox informed that SB 984 (Skinner, 2018) would require all state boards and commissions to be comprised of a specified minimum number of women based on the total number of board or commission members on that board. He noted that the bill would also require the Office of the Governor to collect and release aggregated demographic data provided by state board and commission applicants, nominees, and appointees. Mr. Feng opined SB 984 to be a bill in need of careful examination within the context of gender-neutral policy. Mr. McGuinness expressed concern that the bill will expose boards to discrimination lawsuits. The Board agreed to monitor the bill and take no position at this time.

Mr. Knox continued that SB 1137 (Vidak, 2018) would require the Department of Veterans Affairs (CalVet) and the DCA, in consultation with each other, to take appropriate steps to increase awareness regarding professional licensing benefits available to veterans. He noted that the Board already engages directly with CalVet via targeted communications to raise awareness of architecture as a profession for veterans.

• Ebony Lewis moved to support SB 1137 (Vidak, 2018).

Matthew McGuinness seconded the motion.

Members Baker, Feng, Gutierrez, Lewis, McGuinness, Pearman, Williams, and President Kwan voted in favor of the motion. Members Campos and Serrano were absent. The motion passed 8-0.

Mr. Knox informed that SB 1298 (Skinner, 2018) has died, as it failed to meet a deadline, pursuant to Rule 61(b)(8).

Mr. Knox explained that SB 1465 (Hill, 2018) is included on the agenda to raise the Board’s awareness that the CSLB supports the proposed requirement for a licensee to report any civil action resulting in a final judgment, executed settlement agreement, or final arbitration award that meets specified criteria, including that the amount or value is $1,000,000 or greater. The Board determined that no action is required for SB 1465.

Mr. Knox informed that SB 1480 (Hill, 2018) would amend section 328 of the General Provisions of the BPC to require DCA to prioritize through its Consumer Protection Enforcement Initiative the enforcement of complaints against licensees involving allegations of serious harm to a minor. Mr. Baker enquired about how this bill might affect the Board’s
enforcement staff’s method to process these kinds of complaints, even if an allegation is unrelated to architecture. Ms. Mayer clarified that the bill raises the complaint’s priority level; the accusation would be treated the same as it is today, but with greater priority amongst other complaints. The Board agreed to monitor the bill and take no position at this time.

Ms. Mayer noted four bills that may be included in Section 1 of the Board’s Sunset Review Report: AB 2138, AB 2483, SB 721, and SB 1137.

K. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Ms. Mayer announced that NCARB will have its Annual Business Meeting in Detroit, Michigan on June 27-30, 2018. She noted that this year’s NCARB delegation is composed of members Kwan, Baker, Feng, Serrano, and McGuinness. Ms. Mayer informed that all candidates for 2018 NCARB and Region VI officers and directors are uncontested. Mr. Feng observed that Mr. Baker is a candidate for NCARB Executive Board as the Region 6 Director.

- Barry Williams moved to support the slate of candidates for 2018 NCARB and Region VI officers and directors.

  Tian Feng seconded the motion.

Members Baker, Feng, Gutierrez, Lewis, McGuinness, Pearman, Williams, and President Kwan voted in favor of the motion. Members Campos and Serrano were absent. The motion passed 8-0.

Marcuss Reinhardt informed the Board that NCARB will vote on the following resolutions at its upcoming Annual Business Meeting:


b. 2018-02 Certification Guidelines Amendment – Revision to the Education Evaluation Services for Architects (EESA) Requirement for the Education Alternative to Certification

c. 2018-03 Amendment and Restatement of the NCARB Model Rules of Conduct

d. 2018-04 Amendment and Restatement of the NCARB Bylaws

Mr. Reinhardt summarized each of the resolutions and made a recommendation for the Board to support all four. Mr. Baker, as Chair of NCARB’s Procedures and Documents Committee, noted that the NCARB Model Rules of Conduct and NCARB Bylaws were amended a great deal and are no longer controversial and problematic.

- Ebony Lewis moved to support NCARB Resolutions 2018-01, 2018-02, 2018-03, and 2018-04.

  Robert Pearman seconded the motion.
Members Baker, Feng, Gutierrez, Lewis, McGuinness, Pearman, Williams, and President Kwan voted in favor of the motion. Members Campos and Serrano were absent. The motion passed 8-0.

L. REVIEW AND POSSIBLE ACTION ON 2018/19 INTRA-DEPARTMENTAL CONTRACT WITH OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES) FOR CALIFORNIA SUPPLEMENTAL EXAMINATION (CSE) DEVELOPMENT

Mr. Reinhardt informed the Board that its Intra-Departmental Contract with OPES is due to expire on June 30, 2018. He asked the Board to consider a new contract for continued CSE development during FY 2018/19. Mr. Reinhardt noted that the contract cost of $53,708 for the upcoming FY is lower than previous years (approximately $75,000) due to a shift in funding for associated workshops.

• Jon Alan Baker moved to approve the new $53,708 Intra-Departmental Contract with OPES for FY 2018/19 CSE development.

Ebony Lewis seconded the motion.

Members Baker, Feng, Gutierrez, Lewis, McGuinness, Pearman, Williams, and President Kwan voted in favor of the motion. Members Campos and Serrano were absent. The motion passed 8-0.

M. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Brianna Miller summarized discussions that occurred at the May 4, 2018 LATC meeting. Ms. Miller reported that the LATC reviewed its draft 2018 Sunset Review Report and anticipates reviewing it again at its next meeting in July. She also reported that the Committee reviewed and approved its new website per the 2017-2018 Strategic Plan objective to revamp the LATC’s website to be more user-friendly for consumers.

Ms. Miller reminded the Board of LATC’s work on California Code of Regulations (CCR) section 2620 (Education and Training Credits) to expand pathways to licensure. She reported that after the Board’s December approval of proposed changes to CCR section 2620, the need for minor changes to the language was observed; those changes were approved by the LATC for submission to the Office of Administrative Law. Ms. Miller explained that, in November, the LATC asked that, specifically concerning the experience-only pathway, its ability to certify that experience be considered. She noted that the Council of Landscape Architectural Registration Boards (CLARB) had expressed disinterest in sponsoring a structured internship program like NCARB’s Architectural Experience Program. Ms. Miller further explained that California’s regulations do not certify types of landscape experience, which prompted the LATC to explore other states’ regulations and forms.

Mr. Baker asked if CLARB would be interested in a structured internship program if regulations were changed. Ms. Miller stated that the LATC is interested in structuring candidate experience but CLARB is not interested in implementing it. Ms. Welch clarified the problem to be the absence of a regulatory requirement for supervisors to certify or prove one has diversified experience. She explained that if there is no regulatory requirement for diversified experience or certification of any task, then there is no requirement to report it on a form. Mr. Baker asked if LATC’s Occupational Analysis identifies categories of landscape architectural experience that
can become part of an amendment to the regulation. Ms. Welch recalled the list of task statements in the Test Plan that should be performed to prepare the candidate. She stated that the LATC would need to assess whether using the list in any way is feasible; Mr. Baker opined the list to be a good place to start. Ms. Miller commented that the list is being considered by the LATC and research is currently being gathered about other states’ regulations.

The Board continued to discuss the concept of a structured internship program for landscape architects. Mr. Williams suggested giving CLARB more details about how the program would operate (i.e., timeframe) to demonstrate a sense of commitment and encourage their participation. Ms. Miller conveyed the LATC’s understanding of this issue’s significance. Ms. Kwan encouraged the LATC to discuss grandfathering in the same way that building designers were grandfathered. Ms. Welch explained that grandfather clauses by themselves would not solve the problem, and that any grandfather provision should consider what is best for public protection and allow individuals to obtain licensure.

Ms. Miller informed that the LATC reviewed approved changes to the Board’s Disciplinary Guidelines from a previous meeting and determined that corresponding changes should also be made to the LATC’s Disciplinary Guidelines. She directed the Board’s attention to those changes which included 1) the addition of civil penalty provisions, 2) a new section under General Considerations to provide information regarding the citation authority, and 3) changes to the descriptions of BPC sections 5667, 5670, 5671, 5672, 5673, 5675.5, and 140 to accurately reflect the nature of the violations. Ms. Miller asked the Board to consider the LATC’s recommendation.

- Jon Alan Baker moved to approve the proposed regulatory changes as modified and direct the EO to take all steps necessary to initiate the rulemaking process, authorize the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes.

  Tian Feng seconded the motion.

  Members Baker, Feng, Gutierrez, Lewis, McGuinness, Williams, and President Kwan voted in favor of the motion. Members Campos, Pearman, and Serrano were absent. The motion passed 7-0.

N. REVIEW OF FUTURE BOARD MEETING DATES

Ms. Kwan reminded that the remaining Board meetings for 2018 are scheduled for September 12, 2018, in the Bay Area, and December 13-14, 2018, in Sacramento.

O. ADJOURNMENT

The meeting adjourned at 5:25 p.m.

*Agenda items for this meeting were taken out of order to accommodate the schedule of guest speaker. The order of business conducted herein follows the transaction of business.